



GEORGIA M. PESTANA
Acting Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

JAMES JIMEENZ
Assistant Corporation Counsel
phone: (212) 356-2670
fax: (212) 356-3509
jjimenez@law.nyc.gov

October 31, 2019

VIA ECF

Honorable Robert M. Levy
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Kassin Appling v. City of New York et al.
No. 18-cv-05486 (JBW) (RML)

Your Honor:

I am one of the attorneys assigned to represent defendants the City of New York, Detective Wilson Verdesoto, and Police Officer Kevin Forrester ("Defendants") in the above-referenced matter. Defendants write to respectfully request an extension of time in which to complete fact discovery, from the current deadline of November 7, 2019 up to and including December 23, 2019, and a corresponding extension of the deadline to complete expert discovery, from the current deadline of January 6, 2020, up to and including February 3, 2020. This is the third request for an extension of time to complete discovery. This request is made with plaintiff's consent.

As background, Plaintiff alleges, *inter alia*, claims for false arrest and malicious prosecution stemming from his January 27, 2017 arrest for possession of a firearm. Plaintiff was acquitted after a jury trial. The parties appeared for an initial conference in this matter on March 26, 2019. At that time, the court ordered a date of July 25, 2019, for the completion of fact discovery, and a date of September 23, 2019, for the completion of expert discovery. A request was made for an enlargement of the discovery schedule and granted by this Court, setting a deadline of September 23, 2019, for the completion of fact discovery and a deadline of November 22, 2019, for the completion of expert discovery. A second request was made for an enlargement of discovery schedule and granted by this Court, setting deadlines of November 7, 2019, and January 6, 2020 for the completion of fact and expert discovery. However, as set forth below, an additional enlargement of the discovery schedule is needed.

Defendants have only recently received a release pursuant to CPL §§ 160.50 and 160.55 authorizing this office to obtain Plaintiff's prior arrest records and, accordingly, Defendants are

still in the process of requesting additional records for review and production to the Plaintiff. Additionally, to date, defendants have been unable to schedule the depositions of the third-party witnesses identified by Plaintiff as one such witness has only been identified by name and another is currently incarcerated in Clinton Correctional Facility. The parties will not be able to contact these witnesses and/or conduct their depositions within the short time remaining in the current discovery schedule.

Finally, due to scheduling conflicts, plaintiff's deposition has not yet been conducted. However, his deposition is scheduled for November 5, 2019. The requested enlargement of time will also allow for Defendants to follow-up on any new information learned during Plaintiff's deposition.

Because the parties cannot complete the abovementioned discovery by November 7, 2019, Defendants respectfully request that the Court extend the time to complete fact discovery an additional forty-five days to December 23, 2019, and extend the time to complete expert discovery to February 3, 2020. Defendants thank the Court for its time and attention to this matter.

Sincerely,



James Jimenez
Assistant Corporation Counsel
Special Federal Litigation Division

cc: All Counsel (VIA ECF)